

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2004-259-S – ORDER NO. 2005-83  
FEBRUARY 25, 2005

|        |   |   |                   |
|--------|---|---|-------------------|
| IN RE: | Application of Bush River Utilities, Inc. for | ) | ORDER ON          |
|        | Approval of New Schedule of Rates and         | ) | APPLICATION FOR   |
|        | Charges for Sewage Service provided to        | ) | RATES AND CHARGES |
|        | Residential, Commercial and Wholesale         | ) |                   |
|        | Customers in all Areas Served.                | ) |                   |

**INTRODUCTION**

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on an application for increases in sewer rates and charges filed by Bush River Utilities, Inc. (“BRUI”). BRUI’s application was accepted by the Commission pursuant to S.C. Code Ann. § 58-5-210 *et. seq.* and 26 S.C. Regs. 103-512. BRUI’s application was filed on August 19, 2004.

By correspondence, the Commission instructed BRUI to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the areas affected by BRUI’s application. The Notice of Filing indicated the nature of the application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings. In the same correspondence, the Commission also instructed BRUI to notify directly, by U.S. Mail, each customer affected by the applications by mailing each customer a copy of the Notice of Filing. BRUI furnished the Commission with an Affidavit of Publication demonstrating that the Notice of Filing had been duly published and with a letter in

which BRUI certified compliance with the instruction of the Commission to mail a copy of the Notice of Filing to all customers affected by the applications. No petitions to intervene were filed.

The Office of Regulatory Staff (“ORS”) made on-site investigations of BRUI's facilities, audited BRUI's books and records, and gathered other detailed information concerning BRUI's operations. Prior to January 1, 2005, the Public Service Commission staff also made on-site investigations.

On January 20, 2005, at 10:30 a.m., a public hearing concerning the matters asserted in BRUI's application was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive – Saluda Building, Columbia, SC. The full Commission, with Chairman Randy Mitchell presiding, heard the matter of BRUI's application. Scott Elliott, Esquire and Charles Cook, Esquire represented BRUI. Florence Belser, General Counsel of ORS, and Ben Mustian, Esquire represented the Office of Regulatory Staff. David Butler, Esquire served as legal counsel to the Commission.

BRUI presented the testimony of Keith G. Parnell, President of BRUI, and Charles K. “Ken” Parnell, Vice-President for BRUI and President of HPG and Company. The Office of Regulatory Staff presented the testimony of Willie J. Morgan, Program Manager for the Office of Regulatory Staff Water and Wastewater Department, Dawn Hipp, Project Specialist for the Office of Regulatory Staff Water and Wastewater Department, and Roy Barnette, Office of Regulatory Staff Auditor.

### **BACKGROUND AND PROCEDURAL MATTERS**

BRUI is a privately owned company operating a sewer collection and sewer treatment system in Richland and Lexington Counties. At the time of its Application, BRUI provided sewer service to thirty-five (35) commercial customers including one (1) wholesale utility customer, Development Services, Inc (“DSI”). BRUI's present rate schedule was approved by the Commission in Order Number 96-44 dated January 19, 1996 (Docket Numbers 94-727-S and 94-728-S).

DSI is a privately owned company operating a collection only system in Richland County in the area around Dutch Square Shopping Mall. DSI and BRUI (collectively “Companies”) are commonly owned by brothers Keith Parnell (President) and Ken Parnell (Vice President). DSI is the largest customer of BRUI. DSI applied for a rate increase on July 23, 2004, and the Commission’s hearing on DSI’s application was held on January 5, 2005, approximately two weeks before the BRUI hearing. Both Companies’ applications for rate increases contain substantially identical issues and identical rate schedules.

During the DSI hearing, counsel for DSI made a three part Motion requesting consolidation of the DSI and BRUI dockets, so that the evidence presented in both dockets would be available for consideration during deliberation in both dockets. *See* Commission Order No. 2005-29 (January 18, 2005), Docket No. 2004-212-S. The Commission allowed the dockets of DSI and BRUI to be combined so that evidence presented in both dockets could be considered during deliberation. *Id.* Similarly, in the last rate case, the Commission combined the operations of the Companies for ratemaking

purposes and, in a single Order addressing both rate applications, ordered the Companies to charge identical rates for residential and commercial customers due to the relationship and dependence between DSI and BRUI. *See* Commission Order No. 96-44 (January 19, 1996), Docket No. 94-727-S Application of Development Service, Inc. for Approval of an Increase in Rates and Charges for Sewer Service and Docket No. 94-728-S – Application of Bush River Utilities, Inc. for Approval of an Increase in Rates and Charges for Sewer Service. In the 1996 Order, the Commission also set a wholesale rate for DSI which is dependent upon the rates charged by BRUI. *Id.* In this matter, the Commission has carefully considered the applications filed by the Companies and will issue separate Orders consistent with the Order allowing evidence from both dockets to be considered in reaching a determination. *See* Commission Order No. 2005-29 (January 18, 2005), Docket No. 2004-212-S.

#### **FINDINGS OF FACT AND EVIDENCE SUPPORTING FINDINGS OF FACT**

After thorough consideration of the entire record in the DSI and BRUI hearings, including the testimony and all exhibits, and the applicable law, the Commission makes the following findings of fact and conclusions of law with respect to BRUI:

1. BRUI is a privately owned company operating a sewer collection and sewer treatment system in Richland and Lexington Counties and is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-10 et seq.

The evidence supporting this finding is contained in the application filed by BRUI, in the testimony of BRUI witnesses Keith G. Parnell and Charles K. Parnell, and in prior Commission Orders in the docket files of the Commission, of which the



Commission takes judicial notice. By filing its application, BRUI admits that it is a public utility within the meaning of S.C. Code Ann. § 58-5-10 and submits itself to the jurisdiction of the Commission.

2. The appropriate test year period for purposes of this proceeding is the twelve-month period ending December 31, 2003.

BRUI filed its application using the test year ending December 31, 2003. Based on BRUI's proposed test year, ORS utilized the same test period for its accounting and pro forma adjustments. A fundamental principle of the ratemaking process is the establishment of a historical test year as the basis for calculating a utility's operating margin and, consequently, the validity of the utility's requested rate increase. The test year is established to provide the basis for making the most accurate forecast of the utility's rate base, reserves, and expenses in the near future when the prescribed rates are in effect. *Porter v. South Carolina Public Service Commission*, 328 S.C. 222, 493 S.E.2d 92 (1997), *citing Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 422 S.E. 2d 110 (1992). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. Where an unusual situation exists which shows that the test year figures are atypical, the Commission should adjust the test year data. *See Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E. 2d 278 (1978); *see also, Parker v. South Carolina Public Service Commission*, 280 S.C. 310, 313 S.E.2d 290 (1984), *citing*

*City of Pittsburgh v. Pennsylvania Public Utility Commission*, 187 P.A. Super. 341, 144 A.2d 648 (1958); *Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E.2d 278 (1978). Based on the information available to the Commission, the Commission is of the opinion, and therefore concludes, that the test year ending December 31, 2003 is appropriate for the purposes of this rate request.

3. The Commission will use operating margin as a guide in determining the lawfulness of BRUI's proposed rates and for the fixing of just and reasonable rates.

In its application, BRUI does not specify or propose a particular rate setting methodology. "The Public Service Commission has wide latitude to determine an appropriate rate-setting methodology." *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996). ORS, in support of its position and recommendations in this case, presented in its exhibits and testimonies information regarding the operating margins for per books test year, test year as adjusted, and Phase-I of the proposed increase. See Hearing Exhibit No.13, P. i (Synopsis) and Audit Exhibit A. ORS also presented various alternative operating margins and associated revenue requirements for those operating margins. Hearing Exhibit 8, Exhibit DMH-12. BRUI neither supplied any operating margin information in its application nor supplied sufficient information on which rates could be set using rate of return on rate base methodology. Because the only information available relates to operating margin methodology, the Commission finds that operating margin is the appropriate rate-setting methodology for use in this case.

4. BRUI is seeking an increase in rates in two phases with Phase-I occurring immediately to provide an increase in rates “During Construction” of DHEC required upgrades and Phase-II occurring “After Construction” of the DHEC required upgrades are completed.

By its Application, BRUI is seeking an increase in its rates and charges for sewer service pursuant to a two-phase approach which BRUI asserts results in an increase of sewer service revenues during Phase-I of \$92,077 and an additional increase in revenues of \$52,944 during Phase-II.

The evidence for this finding concerning the amount of the requested rate increase is contained in the application (as amended) by BRUI. BRUI application, Exhibit 2, P. 1 of 5. The testimony and exhibits of ORS witness Roy Barnette show that the level of operating revenues under Phase-I of the rates are \$358,672 which reflects ORS’ adjustments and a net authorized increase in operating revenues of \$74,259.<sup>1</sup> ORS does not recommend the increase of Phase-II rates as those rates are tied to construction that has not yet begun at BRUI. However, after reviewing Order No. 2005-42, dated February 2, 2005, Docket No. 2004-212-S on the rate increase request of BRUI’s sister company DSI wherein the Commission approved the two-phase increase requested by DSI, ORS acknowledged the reasoning for the Commission’s decision and no longer

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<sup>1</sup> At the hearing, ORS presented evidence that the net authorized increase in operating revenues was \$74,259. Subsequent to the hearing on BRUI’s application, the Commission issued its Order No. 2005-42, dated February 2, 2005, Docket No. 2004-212-S on the rate increase request of BRUI’s sister company DSI. In Order No. 2005-42, the Commission correctly observed that ORS had netted out uncollectibles from revenues while still including uncollectibles in expenses resulting in a double-counting of uncollectibles. After reviewing Order No. 2005-42, ORS reviewed the treatment of uncollectibles in this case and agreed in its proposed order that the same error was made in this case. Correcting for the double-counting of uncollectibles results in an increase of revenues of \$5,454.

opposes approval of the two-phase increase for BRUI provided that the Commission require the same type audit before the Phase-II increase is implemented as was required of DSI in Order No. 2005-42.

We adopt ORS's calculations of the increase in revenues for Phase-I, as contained in its proposed order, because ORS's calculation appropriately reflects annualized charges for sewer service without any additional miscellaneous charges. ORS's adjustments to annualize the rates recognize revenues for sewer service for a full year under the approved rates. We find that the annualized revenues for Phase-I as calculated by ORS are appropriate to use in establishing rates. Therefore, the Commission finds that BRUI is seeking an increase in its revenues of \$79,713, under Phase-I of the proposed increase. We further find that BRUI is seeking an additional increase of \$53,750 under Phase-II based on the proposed rates and charges contained in the Application.

5. The appropriate operating revenues of BRUI during the test year under present rates and after accounting and pro forma adjustments are \$284,413.

BRUI's application shows per book test year total operating revenues of \$266,084. BRUI application, Exhibit 2, P. 1 of 5. ORS began with the per book test year operating revenues of \$266,084, and then ORS proposed an adjustment to per book operating revenues to annualize service revenues. Hearing Exhibit 13, Audit Exhibit A and A-1. Staff's proposed adjustment results in an increase to per book operating revenues of \$18,329. ORS's adjustment was based on a bill frequency analysis.

We find the adjustments proposed by ORS to be reasonable and adopt ORS's adjustments. The effect of the ORS adjustments annualizes the test year revenues and as

stated by witness Barnette was justified and therefore verified by his audit. Therefore, we find the appropriate operating revenues for the test year after accounting and pro forma adjustments to be \$284,413.

6. The appropriate operating expenses for BRUI for the test year under present rates and after accounting and pro forma adjustments are \$257,270. This amount of As Adjusted operating expenses reflects increased rate case expenses as updated at the hearing.

The parties offered certain adjustments affecting operating expenses for the test year. BRUI witness Parnell and ORS witnesses Morgan, Hipp and Barnette offered testimony and exhibits detailing adjustments proposed by the parties. See Hearing Exhibits 8, 11, and 13 and BRUI's Application. This section addresses the adjustments:

**A) Officer's Salary [ORS Adjustment #2]**

- 1) Position of BRUI: BRUI proposes to increase officer's salary by \$8,613.
- 2) Position of ORS: ORS found that no salary increase had been given and the increase was due to BRUI's rounding of officer's salary. ORS Witness Barnette Prefiled Testimony, P.5, ll. 8-10; Hearing Exhibit No. 13, Audit Exhibit A-1, P. 1 of 8.
- 3) Decision of the Commission: According to witness Barnette, this adjustment does not reflect a known and measurable change. BRUI offered no further explanation for this proposed adjustment. Therefore, because the adjustment does not reflect a known and measurable out-of-test year change, we find that the adjustment cannot

be accepted. BRUI's proposed increase of officer's salary of \$8,613 is not allowed.

**B) Other Salaries [ORS Adjustment #3]**

- 1) Position of BRUI: BRUI proposes to increase other salaries by \$41.
- 2) Position of ORS: ORS found that no salary increase had been given and the increase was due to BRUI's rounding of other salaries. ORS Witness Barnette Prefiled Testimony, P. 5, ll. 11-12; Hearing Exhibit No. 13, Audit Exhibit A-1, P. 1 of 8.
- 3) Decision of the Commission: ORS witness Barnette testified that this adjustment appears to be due to rounding. Witness Barnette further stated that no salary increases had been given and that the proposed adjustment was not known and measurable. Because the adjustment cannot be verified, BRUI's proposed increase of other salaries is not allowed.

**C) Expenses for Repairs [ORS Adjustment #4]**

- 1) Position of BRUI: BRUI proposes to increase expenses for repairs by \$545.
- 2) Position of ORS: ORS neither found justification for this increase nor a known and measurable out of test year change; therefore, no adjustment was made for BRUI's proposed increase in expenses for repairs. ORS Witness Barnette Prefiled Testimony, P. 5, ll. 13-16; Hearing Exhibit No. 13, Audit Exhibit A-1, P. 1 of 8.
- 3) Decision of the Commission: Because ORS did not find justification for this adjustment and because BRUI offered no further explanation for this adjustment,

we do not accept the proposed increase in repairs expense. BRUI's proposed increase in expenses for repairs is not allowed.

**D) Bonuses [ORS Adjustment #5]**

- 1) Position of BRUI: BRUI proposes to increase expenses for bonuses by \$2,520.
- 2) Position of ORS: ORS found no justification or other known and measurable change for BRUI's proposed increase to bonuses; therefore, ORS made no adjustment. However, ORS does propose to reclassify bonuses of \$3,795 that BRUI originally booked to Taxes-Other Than Income. ORS proposes to include these bonuses in Other Salaries. ORS also proposes to increase FICA/Medicare taxes by \$2,475 based on annualized wages. These changes result in a reduction to Taxes Other than Income of \$1,320. ORS Witness Barnette Prefiled Testimony, PP. 5-6; Hearing Exhibit No. 13, Audit Exhibit A-1, P. 2 of 8.
- 3) Decision of the Commission: Because no justification for the proposed increase to bonuses was found in the ORS audit or produced at the hearing, the Commission denies this adjustment proposed by BRUI. The Commission finds the ORS reclassification of bonuses from Taxes Other Than Income to General and Administrative ("G&A") Expenses and the increase in taxes for FICA/Medicare taxes is appropriate and approves the proposed adjustment to G&A of \$3,795 and net reduction of Taxes Other Than Income of (\$1,320).

**E) Interest Expenses [ORS Adjustment #6]**

- 1) Position of BRUI: BRUI proposes to increase interest expense by \$27,339 as an above-the-line operating expense in Phase I.

- 2) Position of ORS: ORS found no justification to include interest expense as an above-the-line operating expense. ORS also proposes to remove interest expense of \$2,259. ORS Witness Barnette testified the booked interest included \$1,458 paid on equipment notes that were satisfied following the test year and interest paid to BB&T of \$801 on a personal line of credit. ORS found BRUI was unable to identify the use of these funds. ORS Witness Barnette Prefiled Testimony, P. 6, ll. 3-11; Hearing Exhibit No. 13, Audit Exhibit A-1, P. 2 of 8.
- 3) Decision of the Commission: The Commission adopts the ORS proposed decrease to interest expense by \$2,259. Interest booked on equipment notes that have been satisfied will not be a recurring expense of BRUI and thus that interest expense should be removed for rate-making purposes. Also, interest on a personal line of credit is not an expense of providing utility services. As for BRUI's proposed adjustment, BRUI has provided no justification for including interest expense as an above-the-line item; therefore, we deny BRUI's proposed adjustment to Interest Expense.

**F) Depreciation Expense [ORS Adjustment #7]**

- 1) Position of BRUI: BRUI proposes to increase depreciation expense for plant in service by \$9,721.
- 2) Position of ORS: The Water/Wastewater Department proposes basing depreciation on Florida Public Service Commission Water and Wastewater System Regulatory Law as recommended by NARUC. Accordingly, ORS recommends that the new sewer plant be depreciated over 32 years. Next, ORS



- proposes to allocate certain plant purchased by DSI that is also used by BRUI and Midlands Utility, Inc. (“MUI”). Finally, ORS reduced the computed depreciation expense for the depreciation expense associated with tap fees. Tap fees are contributions in aid of construction (“CIAC”) and should be used to reduce rate base, rather than be included in revenue. The adjustment removes depreciation expense on plant paid for by CIAC. The total depreciation expense as computed by ORS amounts to \$21,154 less the depreciation expenses associated with cumulative tap fees of \$11,413, for ORS’s computed Net Depreciation Expense of \$9,741. ORS then subtracted the per book depreciation expense of \$14,279 from ORS’s computed Net Depreciation Expense amount of \$9,741 for an adjustment of (\$4,538). See Audit Exhibit A-2 – Computation of Depreciation Expense Adjustment. ORS Witnesses Morgan and Barnette Direct Testimonies; Hearing Exhibit 11, Morgan Exhibit WJM-2; Hearing Exhibit 13, Audit Exhibit A-2.
- 3) Decision of the Commission: We find that ORS’s adjustments are appropriate and adopt them as computed. Although the Commission ordered a 50-year service life in the last Order, we find the ORS recommended 32-year service life for existing plant is reasonable and sound. See Commission Order No. 96-44 (January 19, 1996), Docket No. 94-727-S Application of Development Service, Inc. for Approval of an Increase in Rates and Charges for Sewer Service and Docket No. 94-728-S – Application of Bush River Utilities, Inc. for Approval of an Increase in Rates and Charges for Sewer Service.

**G) Chemical Expenses [ORS Adjustment #8]**

- 1) Position of BRUI: BRUI proposes to decrease Chemical Expense by \$3,988.
- 2) Position of ORS: ORS did not allow this adjustment as BRUI did not provide justification for the decrease and it appears that BRUI's adjustment is based on an estimate. ORS proposed to adjust Chemical Expense by (\$12,268) which results from ORS reclassifying certain purchases made during the test year. ORS Witness Barnette testified certain equipment was improperly recorded as expenses in the Chemical Expense account on the books of the company, and ORS reclassified the expenses as Plant in Service. ORS Witness Barnette Prefiled Testimony, P. 7, ll. 7-14; Hearing Exhibit 13, Audit Exhibit A-1, P. 3 of 8.
- 3) Decision of the Commission: Because proper justification was not discovered during the ORS audit or produced during the hearing, the Commission denies BRUI's proposed adjustment. The Commission further adopts ORS's proposal to reclassify certain expenses as reasonable and consistent with NARUC accounting guidelines.

**H) Vehicle Expenses [ORS Adjustment #9]**

- 1) Position of BRUI: BRUI proposes to increase Vehicle Expenses by \$21.
- 2) Position of ORS: ORS witness Barnette presented testimony that the audit neither revealed any justification for the proposed increase nor any other known and measurable change. Therefore, ORS proposes to disallow BRUI's proposed adjustment. However, ORS does propose to adjust vehicle expense by reclassifying auto and truck insurance previously included in G&A expenses.

During the test year, BRUI paid \$753 for vehicle insurance which was charged to G&A – Other operating expenses. ORS proposes to reclassify this amount to Operating and Maintenance (“O&M”) expenses – Vehicle expense. Also, ORS proposes to allocate to MUI, an affiliated wastewater system, its portion of insurance premiums paid by BRUI. During the test year, BRUI made an insurance installment payment to Auto-Owner Insurance Co. in the amount of \$5,106 of which \$3,926 was for related vehicle insurance. Of the \$3,926 in vehicle premiums, \$808 was related to personal vehicles. The remaining \$3,118 was related to vehicles and also included in G&A – Other operating expense. ORS proposes to allocate the \$3,118 to MUI and BRUI based on the percentage of single family equivalents. Single family equivalents were 2,937 (69.09%) for MUI and 1,314 (30.91%) for BRUI. Therefore, MUI would be charged 69.09% or \$2,154 and BRUI, 30.91% or \$964. ORS proposes to make this allocation. ORS Witness Barnette Prefiled Testimony, P.P. 7-8; Hearing Exhibit 13, Audit Exhibit A-1, P. 3 of 8.

- 3) Decision of the Commission: The Commission agrees with the ORS position on disallowance of increased vehicle expenses considering no justification was provided. The Commission also finds ORS’s reclassification and allocation of vehicle expenses are appropriate. It is appropriate to remove the insurance premium paid on a personal vehicle as that vehicle is not used in providing utility services. Because BRUI paid insurance premiums for an affiliated utility, it is also appropriate to allocate the portion of the insurance premiums to the affiliated

company so that the ratepayers of BRUI are not paying expenses of the affiliated utility.

**I) Professional Services [ORS Adjustment #10]**

- 1) Position of BRUI: BRUI proposes to increase expenses for Professional Services by \$1,600.
- 2) Position of ORS: The ORS audit determined there was no justification for the proposed increase and that the adjustment of \$1,600 is the result of an estimate. Therefore, ORS did not allow the adjustment. ORS did find an adjustment was necessary, however, to increase Professional Services to reflect an increase in accounting fees of \$650. ORS Witness Barnette Prefiled Testimony, P. 8, ll. 9-11; Hearing Exhibit 13, Audit Exhibit A-1, P. 3 of 8.
- 3) Decision of the Commission: The Commission found no justification or other known and measurable reason for allowing BRUI's proposal to increase G&A expenses by \$1,600 for Professional Services. The Commission does find ORS's adjustment of \$650 for increase in accounting fees reasonable for regulatory purposes and justifiable through documentation found during the ORS audit. Therefore, the ORS adjustment is approved.

**J) Utilities [ORS Adjustment #11]**

- 1) Position of BRUI: BRUI proposes to increase Utilities expenses by \$55.
- 2) Position of ORS: ORS presented testimony that this proposed adjustment was due to rounding and was not due to any known and measurable change.

Therefore, ORS did not allow the adjustment. ORS Witness Barnette Direct Testimony P. 8, ll. 12-14; Hearing Exhibit 13, Audit Exhibit A-1, P. 4 of 8.

- 3) Decision of the Commission: The Commission agrees with ORS that no justification for this increase was found during the audit or produced at the hearing, and the Commission does not allow BRUI's proposed adjustment.

**K) Administrative Expenses [ORS Adjustment #12]**

- 1) Position of BRUI: BRUI proposes to reduce Administrative expenses by \$6,000.
- 2) Position of ORS: ORS Witness Barnette presented testimony that, during the audit, the ORS staff verified the booked expenses related to Administrative expense. ORS determined the Administrative expenses for both BRUI and MUI are paid by MUI. ORS compiled those expenses that make up this category of expense from the books and records of MUI. Since MUI has a fiscal year ending June 30<sup>th</sup>, ORS took a two year average of all expenses in this category in an effort to estimate the appropriate allocation of Administrative expenses on the books of BRUI. ORS's calculations indicate that the expenses to be allocated totaled \$88,173. The average expenses were then allocated to each company based upon single family equivalents, with MUI bearing 69.09% of the expense and BRUI bearing 30.91% of the expense. ORS therefore recommends an additional \$3,254 in Administrative Expense be allocated to BRUI. ORS Witness Barnette Direct Testimony PP. 8-9; Hearing Exhibit 13, Audit Exhibit A-1, P. 4 of 8.
- 3) Decision of the Commission: The Commission adopts the ORS position on Administrative expenses and will allow these expenses to be allocated to BRUI

and MUI. The Commission also finds ORS's allocation based on single family equivalents is reasonable and appropriate for regulatory purposes and approves the adjustment of \$3,254. The Commission found no justification or other known and measurable reason to allow BRUI's proposal to reduce Administrative expenses by \$6,000. Therefore, the Commission disallows BRUI's proposed adjustment.

**L) Loan Costs [ORS Adjustment #13]**

- 1) Position of BRUI: BRUI proposes to amortize loan costs of \$81,591. Their proposal is to amortize BRUI's proportionate share of these loan costs at the rate of \$1,500 per year over a 20 year period.
- 2) Position of ORS: ORS proposes that all loan costs be capitalized rather than expensed and that no amortization be recognized. By capitalizing these costs, BRUI will recover the loan costs through depreciation expense over the useful life of the asset to be constructed. ORS Witness Barnette Direct Testimony P. 9, ll. 5-10; Hearing Exhibit 13, Audit Exhibit A-1, P. 4 of 8.
- 3) Decision of the Commission: The Commission finds ORS's proposal to be in accordance with regulatory accounting principles and recognizes that these expenses should be capitalized as a portion of the capital expenditures for the upgrades to the wastewater treatment plant. The Commission, therefore, disallows BRUI's proposed adjustment to amortize loan costs as an expense item.

**M) Other Operating Expenses [ORS Adjustment #14]**

- 1) Position of BRUI: BRUI proposes to decrease Other Operating Expenses by \$1,794.
- 2) Position of ORS: ORS Witness Barnette presented testimony that the ORS audit did not reveal justification for the proposed decrease in operating expenses. ORS therefore determined BRUI's proposed decrease is the result of an estimate and did not allow the adjustment. ORS Witness Barnette Direct Testimony P. 9, ll. 11-13; Hearing Exhibit 13, Audit Exhibit A-1, P. 5 of 8.
- 3) Decision of the Commission: The Commission finds BRUI did not offer sufficient justification during the audit or at the hearing to allow the proposed decrease to Other Operating Expenses and disallows the adjustment.

**N) Rate Case Expenses [ORS Adjustment #15]**

- 1) Position of BRUI: BRUI proposes to adjust for rate case expenses associated with this filing by amortizing \$23,151 for rate case expenses over a three year period. BRUI presented testimony that three years is the standard amortization period used for rate case expenses that has been approved by the Commission in the past. Further, in response to ORS Data Requests, BRUI stated "this is the standard amortization period used for rate case expense that has been approved by the Commission in the past." Hearing Exhibit No. 2, Data Request No. 1.38.
- 2) Position of ORS: ORS proposed to amortize the rate case expenses of \$12,977 over a 5-year period. ORS Witness Barnette Direct Testimony P.P. 9-10; Hearing Exhibit 13, Audit Exhibit A-1. The adjustment is comprised of \$700 for expenses

for accounting services during the test year and \$12,277 for legal expenses as of the time of ORS' audit. At the hearing, ORS did not object to BRUI submitting an exhibit detailing updated rate case legal expenses of \$22,451 for total rate case expenses of \$23,151. ORS considered time between rate cases as one measure for an amortization period. BRUI's previous rate case proceedings were in 1996 and 1987 resulting in approximately 8.5 years between rate cases. However, ORS testified that an 8.5 year amortization period is too long and proposed 5 years as a more reasonable amortization period. ORS Witness Barnette Direct Testimony and Audit Exhibit A-1, P. 5 of 8. Using the ORS amortization period of 5 years with the updated rate case expenses from Hearing Exhibit 8, results in an adjustment of \$4,630.

- 3) Decision of the Commission: The Commission concludes that total ORS rate case expenses are appropriate for the purposes of this Order. The ORS adjustment is based on expenses incurred during the test year and billing invoices detailing legal fees charged as of the hearing date. The Commission adopts a three-year amortization period as a reasonable period for BRUI to recover these expenses without causing undue hardship on ratepayers. BRUI's position that three years is the standard amortization period used for rate case expenses that has been approved by the Commission in the past is not sufficient legal justification for use of a three year amortization period. The Commission cannot make an adjustment based merely on past Commission practice. *Hamm v. South Carolina Public Service Comm'n*, 309 S.C. 282, 422 S.E.2d 110 (1992). However, the



Commission concludes that a 3-year amortization period is appropriate for this case, especially due to the fact that the Company could possibly be involved in further regulatory proceedings due to our findings herein before implementation of a Phase II increase.<sup>2</sup>

**O) Operating and Maintenance Expense [ORS Adjustment #16]**

- 1) Position of BRUI: BRUI proposes to reduce O&M expense by \$140 for a reduction in Sludge and Waste Disposal Expense.
- 2) Position of ORS: ORS Witness Barnette testified that during the audit, ORS determined that the per book amounts were accurately reflected and that the BRUI reduction was the result of an estimate. Therefore, ORS proposes to disallow this adjustment. ORS Witness Barnette Direct Testimony P. 10, ll. 4-7; Hearing Exhibit 13, Audit Exhibit A-1, P. 5 of 8.
- 3) Decision of the Commission: The Commission finds that no testimony or evidence was presented which would show this adjustment was known and measurable. Therefore, because no justification for the proposed decrease to O&M expense was found in the ORS audit or produced at the hearing, the Commission denies this adjustment proposed by BRUI. Accordingly, the proposed decrease of \$140 to O&M expense is not allowed.

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<sup>2</sup> The updated legal expenses of \$22,451 and the accountant's fees of \$700 bring total updated rate case expenses to \$23,151, which amortized over 3 years results in an adjustment of \$5,122 above the amount originally included by ORS.

**P) Truck Expenses [ORS Adjustment #17]**

- 1) Position of BRUI: BRUI did not propose an adjustment related to Truck Expenses.
- 2) Position of ORS: ORS proposes to adjust truck expenses to reflect one-third (1/3) of the expenses to BRUI. BRUI stated that it used a Ford F-250 owned by DSI one-third (1/3) of the time. Total truck expenses, as reflected on the books of DSI, amount to \$1,109 which is comprised of \$858 for vehicle insurance and \$251 for vehicle repairs. One-third (1/3) of \$1,109 is \$370; therefore, to allow one-third (1/3) of the truck expenses, ORS's adjustment is \$370 to O&M expense. ORS also allocated and allowed one-third (1/3) of the total vehicle taxes to BRUI resulting in an adjustment to Taxes Other Than Income of \$109. The total vehicle taxes as booked by DSI were \$328 and therefore an adjustment of \$109 was required to allocate one-third (1/3) of that expense to BRUI. ORS Witness Barnette Prefiled Testimony, P. 10, ll. 4-7; Hearing Exhibit 13, Audit Exhibit A-1, P. 6 of 8. ORS Witness Morgan Prefiled Testimony P. 4, ll. 1-8.
- 3) Decision of the Commission: As the Commission approved this adjustment in its order for the DSI rate case, the Commission also adopts the ORS position on vehicle expenses for BRUI and will allow the vehicle expenses to be adjusted to reflect BRUI's expenses for its portion of the truck usage. *See* Commission Order No. 2005-42 (February 2, 2005), Docket No. 2004-212-S – Application of Development Service, Inc. for Approval of a New Schedule of Rates and Charges for Sewage Service Provided to Residential and Commercial Customers in all

Areas Served. Testimony shows BRUI uses the truck one-third (1/3) of the time and should therefore be responsible for one-third (1/3) of the vehicle expenses. It would not be fair or responsible to require DSI rate payers to pay for 100% of the truck expenses when the truck is used one-third (1/3) of the time for the benefit of BRUI's customers; therefore, the Commission adopts the ORS adjustments to vehicle expenses.

**Q) Insurance Premiums [ORS Adjustment #18]**

- 1) Position of BRUI: BRUI did not propose to include group insurance premiums paid on BRUI's Plant in Service in its expenses for the test year.
- 2) Position of ORS: ORS proposes to allocate a portion of group insurance coverage premiums for general liability coverage and umbrella coverage on BRUI's Plant in Service. ORS witness Barnette testified that an insurance payment of \$5,106 was made by BRUI. Of this payment, ORS determined during its audit that \$3,926 was for insurance coverage on vehicles. ORS determined the remaining \$1,180 is for general liability and umbrella coverage on commercial property. ORS allocated the \$1,180 among the three companies based on single family equivalents resulting in an adjustment to BRUI's expenses of (\$895). ORS Witness Barnette Direct Testimony, PP. 10-11; Hearing Exhibit 13, Audit Exhibit A-1, P. 6 of 8.
- 3) Decision of the Commission: The Commission has found ORS's adjustments and manner in arriving at these adjustments to be reasonable and verifiable. The

Commission allows the ORS recommended adjustments to BRUI's expenses of (\$895) for its portion of group insurance coverage premiums.

**R) Telephone Expenses [ORS Adjustment #19]**

- 1) Position of BRUI: In the application, BRUI proposed to increase telephone expenses by \$377.
- 2) Position of ORS: ORS presented testimony that this proposed adjustment was due to rounding and was not due to any known and measurable change. Therefore, ORS did not allow this adjustment. ORS Witness Barnette Direct Testimony P. 11; Hearing Exhibit 13, Audit Exhibit A-1, P. 6 of 8.
- 3) Decision of the Commission: The Commission finds that no testimony or evidence was presented which would show this adjustment was known and measurable. Therefore, because no justification for the proposed increase to telephone expenses was found in the ORS audit or produced at the hearing, the Commission denies this adjustment proposed by BRUI. Accordingly, the proposed increase of \$377 to telephone expense is not allowed.

**S) DHEC Fines [ORS Adjustment #20]**

- 1) Position of BRUI: BRUI proposes to include DHEC fines of \$3,500.
- 2) Position of ORS: ORS presented testimony that the proposed inclusion of \$3,500 for DHEC fines reflects a reduction in fines of \$5,900 from the \$9,400 BRUI indicated it incurred during the test year in its application. ORS determined this amount included fines of \$7,138 and the Public Utility Assessment Tax of \$2,262. ORS proposes to eliminate DHEC fines of \$7,138, as they are not considered a

normal business expense, and to reclassify the Public Utility Assessment Tax of \$2,262 from DHEC fines to Taxes Other Than Income. This is a total adjustment of (\$9,400) to G&A expense and an adjustment of \$2,262 to Taxes Other Than Income. BRUI included both of these items in the per book General and Administrative Expenses. ORS Witness Barnette Direct Testimony, P. 11; Hearing Exhibit 13, Audit Exhibit A-1, P. 7 of 8.

- 3) Decision of the Commission: The Commission agrees with ORS and disallows DHEC fines as they are not considered a normal business expense. BRUI is required to operate in compliance with the law, and fines or penalties associated with noncompliance are not a normal cost of business that should be borne by ratepayers.

**T) Gross Receipts Tax [ORS Adjustment #21]**

- 1) Position of BRUI: BRUI did not propose an adjustment to the As Adjusted Revenues for Gross Receipts Tax.
- 2) Position of ORS: ORS witness Barnette testified ORS applied the most recent gross receipts factor of 0.007733226 to the As Adjusted Revenues. The gross receipts factor includes costs for administration, the Public Service Commission, and the Office of Regulatory Staff. ORS applied the factor to the as adjusted revenue of \$284,413 for total gross receipts of \$2,199 less the per book amount of \$2,262 for an adjustment of (\$63). ORS Witness Barnette Prefiled Testimony, P. 11, ll. 16-21; Hearing Exhibit 13, Audit Exhibit A-1, P. 7 of 8.

- 3) Decision of the Commission: The Commission adopts the adjustment made by ORS as reasonable and verifiable for regulatory purposes. Since the Commission has adopted and approved the ORS adjusted revenues, it is appropriate to apply the most recent gross receipts factor for an adjustment of (\$63) to BRUI's Gross Receipts Tax Expense.

**U) Uncollectibles Associated with the As Adjusted Revenue [ORS Adjustment #22]**

- 1) Position of BRUI: BRUI does not propose an adjustment to uncollectibles for the As Adjusted Revenue.
- 2) Position of ORS: ORS proposes to adjust expenses for a 1.5% allowance for uncollectibles associated with the As Adjusted Service Revenues. The 1.5% allowance is an industry standard and is less than BRUI's actual test year uncollectible rate of 6.70%. ORS's adjustment used the As Adjusted Service Revenues of \$283,902 multiplied by the 1.5% allowance factor, for a total adjustment of \$4,259. ORS Witness Barnette Prefiled Testimony, P. 12, ll. 1-5; Hearing Exhibit 13, Audit Exhibit A-1, P. 7 of 8.
- 3) Decision of the Commission: The Commission finds the 1.5% uncollectible rate proposed by ORS and recognized as the industry standard to be reasonable. The 1.5% factor requires an adjustment of \$4,259 for the test year adjustment.

**V) Income Taxes [ORS Adjustment #23]**

- 1) Position of BRUI: BRUI does not propose to adjust for Income Taxes associated with the As Adjusted Revenue.

- 2) Position of ORS: ORS proposes to adjust for Income Taxes associated with the As Adjusted Revenue. This increase is in the amount of \$5,662. ORS Witness Barnette Direct Testimony, P. 12; Hearing Exhibit 13, Audit Exhibit A-3.
- 3) Decision of the Commission: The Commission agrees with ORS that the Income Taxes associated with the As Adjusted Revenue should be adjusted. The utility operations are the source of the tax liability and coverage for the tax liability should be included in the Company's rates. The Commission finds that the appropriate adjustment to Income Taxes based on the adjustments approved herein should be \$4,676.

**W) Uncollectibles Associated with the Proposed Revenues [ORS Adjustment #25]**

- 1) Position of BRUI: BRUI proposes to reduce revenues by an allowance of 1.5% of proposed revenues for uncollectibles. This adjustment amounts to \$5,454 which is computed using BRUI's total proposed revenues of \$363,615 multiplied by the 1.5% allowance. BRUI indicated this adjustment is reasonable in light of the fact BRUI's uncollected rates in the test year were 6.46% based on test year revenues for sewer service of \$265,566.87 and annualized total revenues based on 100% collections from the customer base equaling \$283,902.24. Hearing Exhibit 2, Response to First Set of Data Requests, 1.43.
- 2) Position of ORS: ORS proposes to adjust operating expenses for a 1.5% allowance for uncollectibles. As ORS witness Barnette testified, because ORS has already allowed an amount for uncollectibles on the As Adjusted Service Revenue, ORS needs only to make an additional adjustment for the proposed

- increase for service revenues. This adjustment was computed using the ORS proposed increase of \$74,259 multiplied by the 1.5% allowance resulting in a total adjustment of \$1,114 for Phase I. ORS Witness Barnette Direct Testimony, P. 12, ll. 12-16; Hearing Exhibit 13, Audit Exhibit A-1, P. 8 of 8.
- 3) Decision of the Commission: As the Commission has accepted the proposed two phase increase in rates as proposed by BRUI, the Commission will adjust both phases for uncollectibles. Applying the 1.5% uncollectibles factor approved *supra* to the proposed increase produces a required adjustment of \$1,196 associated with Phase-I and \$806 associated with Phase-II.

**X) Gross Receipts Tax for the Proposed Increase [ORS Adjustment #26]**

- 1) Position of BRUI: BRUI does not propose an increase related to the Gross Receipts Tax for the Proposed Increase.
- 2) Position of ORS: ORS proposed to adjust for gross receipts tax associated with the proposed increase. ORS presented testimony that it used the proposed increase of \$74,259 multiplied with the gross receipts factor of 0.007733226 for a total adjustment of \$574 for Phase I. ORS Witness Barnette Direct Testimony, P. 12, ll. 17-20; Hearing Exhibit 13, Audit Exhibit A-1, P. 8 of 8.
- 3) Decision of the Commission: The Commission believes the adjustment for gross receipts tax is reasonable and consistent with the previous adjustments. Since the Commission has adopted and approved the two phase proposed increase in service revenue as proposed by BRUI, it is appropriate to apply the most recent



gross receipts factor to this amount for an adjustment of \$616 associated with Phase-I and \$416 associated with Phase-II.

**Phase-II increases in expenses.**

The Commission must consider certain accounting adjustments for Phase-II. Under our holding, all accounting adjustments from Phase-I would carry forward into Phase-II.

**Y) Sludge Removal**

- 1) Position of BRUI: BRUI proposes an increase of O&M expenses after Phase-II of \$18,000 to reflect sludge removal expenses. This increase was requested in the Company's Application.
- 2) Position of ORS: ORS took no position on this at the hearing.
- 3) Commission Decision: O&M expenses should be increased in Phase-II by \$8,860 to reflect sludge removal expenses as adjusted of \$18,000 as requested by the Company. This amount is supported by the Company's response to ORS Data Request Item #1.39.

**Z) Depreciation Expense**

- 1) Position of BRUI: BRUI requests that depreciation expense be increased in Phase-II by an additional \$34,480, resulting in total depreciation expense after Phase-II of \$58,480, to reflect a 25-year service life on proposed sewer treatment plant upgrades.
- 2) Position of ORS: ORS took no position on this at the hearing.

- 3) Decision of the Commission: Depreciation expense should be increased for Phase-II by \$37,291, resulting in total depreciation expense after Phase-II of \$47,032, to reflect a 25-year service life on proposed sewer treatment plant upgrades of \$932,278. The Commission finds the evidence on this matter as presented by the Company to be credible.

**AA) Property Taxes**

- 1) Position of BRUI: BRUI requests an increase in property taxes for Phase-II of \$4,500 for new treatment plant upgrades in its responses included in late-filed Hearing Exhibit No. 4.
- 2) Position of ORS: ORS took no position at the hearing.
- 3) Decision of the Commission: The Commission finds that property taxes for Phase-II should be increased by \$4,500 for new treatment plant upgrades. This is supported by the Company's late-filed exhibit, Hearing Exhibit No. 4, wherein the Company calculated the amount of the property tax increase noted herein.

**BB) Interest Expense**

- 1) Position of BRUI: BRUI proposed that interest expense be increased in Phase-II to \$33,903 to reflect interest including treatment plant upgrades.
- 2) Position of ORS: ORS took no position at the hearing.
- 3) Decision of the Commission: A proposed adjustment for Interest Expense should be adopted. However, the Commission finds an adjustment of \$28,285 reflects interest on the Company's allocated Rate Base, including treatment plant upgrades, a 50% Debt/50% Equity capital structure, and a 5.65% embedded cost

of debt rate. Accordingly an interest adjustment for Phase-II of \$28,285 should be adopted.

**CC) Income Taxes for the Proposed Increase [ORS Adjustment #27]**

- 1) Position of BRUI: BRUI proposes to adjust for income taxes associated with BRUI's proposed increase in income. BRUI states in its application that this adjustment is \$9,217.
- 2) Position of ORS: ORS also proposes to adjust for income taxes associated with the proposed increase. ORS witness Barnette testified that ORS's adjustment was based on revenues, expenses, and interest expense after the proposed increase for a total adjustment of \$22,598. ORS Witness Barnette Direct Testimony, PP. 12-13; Hearing Exhibit 13, Audit Exhibit A-3.
- 3) Decision of the Commission: The Commission agrees with both BRUI and ORS that the income taxes associated with the proposed increase should be adjusted. Accordingly, an adjustment for Income Taxes associated with the proposed increase of \$23,671 for Phase-I and (\$10,147) for Phase-II should be adopted.

**Summary of Adjustments to Expenses:**

The adjustments to test year operating expenses adopted herein result in an increase in Service Revenue of \$18,329; a decrease in O&M Expenses of \$10,181; an increase in G&A Expenses of \$4,701; a decrease in Depreciation Expense of \$4,538; an increase in Taxes Other Than Income of \$988; an increase in Income Taxes of \$4,676; and a decrease in Interest Expense of \$2,259. Adding these adjustments to per books total

Operating Expenses of \$263,883 results in Total Operating Expenses As Adjusted of \$257,270.

7. The Commission finds that the proposed increase as presented by BRUI is just and reasonable and will produce rates which are just and reasonable. Accordingly, the Commission approves the two phase increase in rates as proposed by BRUI. The evidence and adjustments for the herein approved proposed increase are discussed in this section.

**A) Service Revenues [ORS Adjustment #24]**

- 1) Position of BRUI: BRUI proposes to adjust service revenues for the proposed increase in rates by \$92,077 for Phase-I and by \$52,944 for Phase-II.
- 2) Position of ORS: ORS also proposes to adjust service revenues for the proposed increase in the amount of \$79,713 in its proposed order based on BRUI's Phase-I rate structure. ORS did not include BRUI's "After Construction" or Phase-II proposed rates as known and measurable at this time, taking the position that since construction of the BRUI system has not begun, the final cost of this project is not known and measurable. ORS Witness Barnette Direct Testimony, P. 12, ll. 8-11; Hearing Exhibit 13, Audit Exhibit A-3. However, after reviewing Order No. 2005-42, dated February 2, 2005, Docket No. 2004-212-S on the rate increase request of BRUI's sister company, DSI, wherein the Commission approved the two-phase increase requested by DSI, ORS acknowledged the reasoning for the Commission's decision and does not oppose approval of the two-phase increase

for BRUI provided that the Commission require the same type audit before the Phase-II increase is implemented as was required of DSI in Order No. 2005-42.

- 3) Decision of the Commission: The Commission finds BRUI presented known and measurable costs associated with the proposed upgrade and that both phases of the requested increase should be granted. BRUI and its sister companies of DSI and MUI have sought and obtained financing to pay for construction costs of an upgrade as mandated by DHEC to BRUI's wastewater treatment plant as mandated by DHEC. The record shows that the minimum costs of the upgrade will be \$932,278. The Commission, therefore, agrees with BRUI's proposed increase and approves both phases of the proposed increase. However, the Commission finds that the ORS' calculated service revenues as included in its proposed order under Phase-I is appropriate and adopts that adjustment.

8. The operating margin for the test year under present rates and after accounting and pro forma adjustments approved herein is 9.54%. The calculation for the operating margin is made using the test year as adjusted operating revenues of \$284,413, as approved herein, and test year as adjusted operating expenses of \$257,270<sup>3</sup> as approved herein. Adjusted test year operations result in a "Net Income for Return" of \$27,143. Using the adjusted Net Income for Return less Interest Expense (if applicable) divided by Operating Revenues, the operating margin is calculated to be 9.54%.

The following table indicates (1) BRUI's gross revenues for the test year after adjustments approved herein under the current rate schedule; (2) BRUI's operating

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<sup>3</sup> As Adjusted Operating Expenses include updated rate case expenses as provided during the hearing.

expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of test year occurrences approved herein; and (3) the operating margin under the presently approved schedule for the test year:

**TABLE A**

Before Increase As Adjusted

|   |                   |
|---|-------------------|
| Operating Revenues                      | \$284,413         |
| Operating Expenses                      | <u>257,270</u>    |
| Net Operating Income/Loss               | 27,143            |
| Add: Customer Growth                    | <u>-0-</u>        |
| <br>NET INCOME/(LOSS) FOR RETURN        | <br><u>27,143</u> |
| <br>Operating Margin                    | <br><u>9.54%</u>  |
| (Interest Expense For Operating Margin) | <u>\$0</u>        |

9. Based on the requirement that BRUI upgrade its wastewater treatment facility pursuant to a Consent Order with DHEC, we find that BRUI has demonstrated a need for an increase in rates. While adjusted test year operations reveal an operating margin of 9.54%, BRUI requires an increase in rates in order to upgrade its facility to comply with the Consent Order and to meet permitting limits.

10. When applied to as adjusted test year operations, the rates requested and proposed by BRUI for the Phase-I increase in rates result in an operating margin of 22.35%. Phase-II of BRUI's proposed increase will produce additional revenues of \$53,750, resulting in an operating margin of 15.58%.

11. The Commission finds that an operating margin of 22.35% under Phase-I, or the "During Construction phase", and an operating margin of 15.58% under Phase-II,

or the “After Construction phase”, is just and reasonable and results in just and reasonable rates to charge for the services offered by BRUI.

12. The level of operating revenues required in order for BRUI to have an opportunity to earn a 22.35% operating margin after Phase-I is found to be \$364,126. The level of operating revenues in order for BRUI to have an opportunity to earn a 15.58% operating margin after Phase-II is found to be \$417,876.

The following table indicates (1) BRUI’s gross revenues for the test year after adjustments approved herein, under the proposed Phase-I rate schedule; (2) BRUI’s operating expenses for the test year after accounting and pro forma adjustments and adjustments for known and measurable out-of-test year occurrences approved herein; and (3) the operating margin under the proposed Phase-I rate schedule:

**TABLE B**

After Phase-I Increase

|   |                |
|---|----------------|
| Operating Revenues                      | \$364,126      |
| Operating Expenses                      | <u>282,753</u> |
| Net Operating Income/Loss               | 81,373         |
| Add: Customer Growth                    | <u>0</u>       |
| NET INCOME/(LOSS) FOR RETURN            | <u>81,373</u>  |
| Operating Margin                        | <u>22.35%</u>  |
| (Interest Expense For Operating Margin) | <u>\$0</u>     |

The following table indicates (1) BRUI’s gross revenues for the test year after adjustments approved herein, under the proposed Phase-II rate schedule; (2) BRUI’s operating expenses for the test year after accounting and pro forma adjustments and

adjustments for known and measurable out-of-test year occurrences approved herein; and  
(3) the operating margin under the proposed Phase-II rate schedule:

**TABLE C**

| <u>After Phase-II Increase</u>          |                      |
|---|----------------------|
| Operating Revenues                      | \$417,876            |
| Operating Expenses                      | <u>324,479</u>       |
| Net Operating Income/Loss               | \$ 93,397            |
| Add: Customer Growth                    | <u>0</u>             |
| <br>NET INCOME/(LOSS) FOR RETURN        | <br><u>\$ 93,397</u> |
| <br>Operating Margin                    | <br><u>15.58%</u>    |
| (Interest Expense For Operating Margin) | <u>\$28,285</u>      |

13. In order to meet the income requirement for the opportunity to earn an operating margin of 22.35% for Phase-I, BRUI will require additional revenues of \$79,713. This amount of additional revenues represents BRUI's proposed Phase-I increase. In order to meet the income requirement for the opportunity to earn an operating margin of 15.58%, BRUI will require additional revenues of \$53,750. This amount of additional revenues represents BRUI's proposed Phase-II increase.

14. The Commission finds that the increase in tap fees should not be approved.

By its Application, BRUI requested to increase its customer tap fees by approximately 300%. However, BRUI did not provide cost justification for the proposed increase in tap fees with its application as required by 26 S.C. Code Regs. 103-512.4.A.9 (Supp. 2004) and 103-502(11). From the ORS audit of BRUI, the requested increase in



tap fees appears to be due to increased plant investment upon upgrade of the BRUI wastewater treatment facility (“WWTF”). BRUI also stated in responses to ORS Data Requests that “little material cost is associated with the tap.” Hearing Exhibit No. 2, Response to Data Request 1.6(f). Further, BRUI indicated that tap fees are used to pay officer salaries. Hearing Exhibit No. 2, Response to Data Request 1.6(f). Normally, tap fees are booked as contributions in aid of construction (“CIAC”) and included as a deduction from rate base. Therefore, the Commission finds the requested tap fee increase to be unnecessary at this time as BRUI has not provided sufficient cost justification for the increase in tap fees.

15. The current performance bond of BRUI is insufficient and does not meet the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004).

S.C. Code Ann. Section 58-5-720 (Supp. 2004) was amended in May 2000 and increased the required amounts of performance bonds to a minimum of \$100,000 and a maximum of \$350,000. Thereafter, the Commission’s regulations were amended to provide for determining the amount of bond required by each utility. 26 S.C. Code Regs. 103-512.3.1 (Supp. 2004) was amended to provide that the amount of the bond should be based on the total amount of certain expense categories.

ORS witness Hipp provided testimony concerning the performance bond filed by BRUI. According to witness Hipp, DSI has on file a performance bond with a face amount of \$10,000. The performance bond is secured by a personal financial statement of Mr. Keith Parnell, President of DSI. Witness Hipp opined that the performance bond is insufficient because it does not meet the statutory amount required for the performance

bond. Further, Ms. Hipp testified that the surety filed to support the performance bond is insufficient because (1) the amount of the surety does not comply with the requirement of 26 S.C. Code Regs. 103-512.3.1 (Supp. 2004); (2) the financial statement does not accurately depict the net worth of the surety as required by 26 S.C. Code Regs. 103-512.3.2 and 103-512.3.3; (3) the real estate indicated on the financial statement is in the name of another person and there is no documentation indicating authorization to pledge the real estate as part of the surety; and (4) the same financial statements and surety are used to secure performance bonds of BRUI's sister companies DSI and MUI. Witness Hipp calculated that an appropriate bond for BRUI, based upon the criteria contained in 26 S.C. Code Regs. 103-512.3.1, would be \$249,604. ORS Witness Hipp Direct Testimony PP. 7-9.

BRUI witness Parnell testified that BRUI had renewed and filed the bonds as required by the PSC Staff prior to bringing their Application. Parnell Rebuttal Testimony, P. 3. Upon review of this issue, however, we find that BRUI's bond does not meet the statutory requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004). The statute requires a minimum bond of \$100,000 up to a maximum of \$350,000. The requirement of the performance bond is to protect the public and to insure that the utility provides adequate and proper service. Accordingly, we hold that BRUI must provide a \$100,000 bond by the end of its construction phase, i.e. Phase-I. We waive, pursuant to the provisions of 26 S.C. Code Ann. Regs. 103-501.3, that portion of 26 S.C. Code Ann. Regs. 103-512.3.1 which requires that the amount of bond be based on, but not limited to, the total amount of certain categories of Company expenses for twelve months. The

Commission's waiver regulation for sewer companies, 26 S.C. Code Ann. Regs. 103-501.3, states that in any case where compliance with any of the rules and regulations introduces unusual difficulty, such rules or regulations may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest. Considering the present financial position of the Company, and considering the fact that the Company has had difficulty in the past in obtaining a surety bond, we believe that setting the bond in the amount recommended by ORS, which is in line with the cited portion of the Commission regulation, is going to introduce unusual difficulty for the Company in complying with that portion of the regulation. Further, the waiver of the stated portion of 26 S.C. Code Ann. Regs. 103-512.3.1 is in the public interest, since it allows the Company to more easily transition to a bond amount in line with the statutory language found in S.C. Code Ann. Section 58-5-720 (Supp. 2004). BRUI must comply with the bonding requirement by completion of construction of Bush River's new treatment facility. The Commission will review bonding requirements if a merger of the three companies occurs.

16. Although the Commission encourages BRUI to prepare a business plan, we find that this Commission does not have the authority to order BRUI to prepare such a business plan. Accordingly, we deny the recommendation of ORS that BRUI prepare and file a business plan with the Commission.

17. The Commission finds that BRUI should maintain its books and records in accordance with the NARUC Uniform System of Accounts, as adopted by this Commission.

BRUI witness Parnell admitted that BRUI is not maintaining its books and records under the NARUC Uniform System of Accounts. The Commission's rules and regulations require sewerage utilities to use the NARUC Uniform System of Accounts. Keeping books and records in compliance with NARUC's Uniform System of Accounts will not only mean compliance with 26 S.C. Code Regs. 103-517 but will also make regulatory audits easier and less burdensome. ORS requested that BRUI be required to maintain its books and records under NARUC's Uniform System of Accounts.

18. It is apparent to the Commission that the managing personnel of BRUI and its sister companies lack sufficient knowledge of Commission rules, regulations, and statutes concerning water and sewer utilities. The managing personnel must obtain a better understanding of such rules, regulations, and statutes. ORS may be able to provide assistance in this endeavor.

### **CONCLUSIONS OF LAW**

Based upon the Findings of Fact as contained herein and the record of this proceeding, the Commission makes the following Conclusions of Law:

1. BRUI is a public utility as defined in S.C. Code Ann. § 58-5-10(3) (Supp. 2004) and as such is subject to the jurisdiction of this Commission.
2. The appropriate test year on which to set rates for BRUI is the twelve month period ending December 31, 2003.
3. Based on the information provided by the parties, the Commission concludes the appropriate rate setting methodology to use as a guide in determining the

lawfulness of BRUI's proposed rates and for the fixing of just and reasonable rates is operating margin.

4. For the test year of December 31, 2003, the appropriate operating revenues, under present rates and as adjusted in this Order, are \$284,413, and the appropriate operating expenses, under present rates and as adjusted in this Order, are \$257,270.

5. We conclude that BRUI has demonstrated a need for a rate increase as BRUI is required to upgrade its wastewater treatment plant in order to comply with DHEC regulations and permitting limits. We conclude that BRUI has provided sufficient justification for its proposed two-phase increase as BRUI and its affiliated companies, DSI and MUI, have obtained financing for its needed construction projects. An operating margin of 22.35% is approved for BRUI after Phase-I of the increase, and an operating margin of 15.58% is approved for BRUI after Phase-II of the increase. We conclude that an operating margin of 22.35% for the "During Construction phase" and 15.58% for the "After Construction phase" is fair and reasonable and results in rates which are just and reasonable.

6. In order for BRUI to have the opportunity to earn the 22.35% operating margin found fair and reasonable herein for the "During Construction phase," BRUI must be allowed additional revenues of \$79,713. In order for BRUI to have the opportunity to earn the 15.58% operating margin found fair and reasonable herein for the "After Construction phase," BRUI must be allowed additional revenues of \$53,750.

7. The proposed increase in the tap fee is not allowed because the proposal does not correctly identify the expenses associated with the tap fee as required by 26 S.C. Code Regs. 103-502.11.

8. The rates as set forth in the attached Appendix A are approved for use by BRUI and are designed to be just and reasonable without undue discrimination and are also designed to meet the revenue requirements of BRUI.

9. Based upon the requirements of S.C. Code Ann. Section 58-5-720 (Supp. 2004), BRUI shall post a performance bond of \$100,000. The performance bond shall be in a form as allowed by S.C. Code Ann. Section 58-5-720 and 26 S.C. Code Regs. 103-512.3 through 103-512.3.3 (Supp. 2004).

IT IS THEREFORE ORDERED THAT:

1. BRUI is granted an operating margin for its sewer service of 22.35% for the “During Construction phase”, or Phase-I, and 15.58% for the “After Construction phase”, or Phase-II.

2. The schedule of rates and charges attached hereto as Appendix A is hereby approved for service rendered on or after the date of this Order. Further, the schedule is deemed filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240 (Supp. 2004). Prior to BRUI implementing Phase-II of the herein approved rate increase, BRUI shall undergo an audit from the Office of Regulatory Staff. BRUI must have expended a minimum of \$932,278 in treatment plant upgrades and such expenditures must have been audited by ORS. Further, prior to entering Phase-II, BRUI shall be in compliance with all DHEC regulations. In addition, prior to implementing Phase-II, BRUI must be

maintaining its books and records according to the NARUC Uniform System of Accounts. Further, BRUI must have an appropriate performance bond on file. Further, the ORS must certify to this Commission that it has performed the required audit and the results of that audit. Should the audit reveal noncompliance with the Commission's directives in this matter, BRUI may not implement Phase-II of the rate increase until further Order of the Commission. BRUI must be in compliance with all directives of this Commission before implementation of Phase-II of the rate increase.

3. Should the schedule of rates for Phase-I of the rate increase approved herein not be placed into effect within three months of this Order, BRUI shall require written approval from this Commission to place the rates into effect.

4. As referred to above, BRUI shall maintain its books and records in accordance with the NARUC Uniform System of Accounts as adopted by this Commission by the end of Phase-I.

5. Pursuant to and consistent with S.C. Code Ann. Section 58-5-720 (Supp. 2004), BRUI shall post a performance bond with a face value of \$100,000.

6. This Order shall remain in full force and effect until further Order of the Commission.

/s/  
Randy Mitchell, Chairman

ATTEST:

/s/  
G. O'Neal Hamilton, Vice Chairman

(SEAL)